

REMARKS

Applicants respectfully request reconsideration of the application, as amended, in view of the following remarks.

The present invention as set forth in **amended Claim 1** relates to a toner for developing an electrostatic image, comprising:

a polyester resin containing nitrogen; and

a colorant,

wherein a concentration of nitrogen at a surface of the toner is more than a concentration of nitrogen in the entire toner, and the surface of the toner is harder than a center portion of the toner;

wherein a ratio (S/V) of the surface concentration of nitrogen S to the overall concentration of nitrogen V is from 1.2 to 10.

In contrast, none of the cited references discloses or suggests the toner of the present invention comprising **a polyester resin containing nitrogen, wherein a concentration of nitrogen at a surface of the toner is more than a concentration of nitrogen in the entire toner, and the surface of the toner is harder than a center portion of the toner.**

Claim 1 was amended to include the limitations of Claim 9. In addition Claims 15-21 claim a polyester resin containing nitrogen.

Applicants submit herewith a **Rule 132 Declaration** showing that Sugiyama et al, Matsuda et al and Yagi et al do not disclose or suggest a toner as claimed. Toners were produced as in Example 14 of Sugiyama et al; preparation Example 2, Toner 13 of Matsuda et al and Example 1 of Yagi et al. The ratio S/V was measured and is in each case 1.1 which is outside the scope of the present invention. The present invention requires a ratio of S/V of 1.2 to 10. Thus, the present invention is not anticipated by Sugiyama et al, Matsuda et al and Yagi et al.

In addition, the present application and Matsuda et al were, at the time the invention of the present application was made, owned by Ricoh Co., Ltd. Thus, the present application qualifies for the exemption under 103(c)/102(e).

In addition, the present application and Yagi et al were, at the time the invention of the present application was made, owned by Ricoh Co., Ltd. Thus, the present application qualifies for the exemption under 103(c)/102(e).

Nukada fail to cure the defects of Sugiyama. Thus, even a combination of Nukada and Sugiyama does not result in the present invention.

Therefore, the rejections over Sugiyama, Nukada, Yagi, and Matsuda are believed to be unsustainable as the present invention is neither anticipated nor obvious and withdrawal of these rejections is respectfully requested.

The rejection of Claim 19 under 35 U.S.C. § 112, 2nd paragraph, is obviated by the amendment of this Claim.

The objection to the disclosure is obviated by the amendment of the disclosure. The trademarks pointed out by the Examiner have been capitalized.

Regarding US application Serial No. 09/845,449, Applicants note that this application published as US 2002/0006564 on January 17, 2002. This reference was already considered by the Examiner on September 4, 2004. See the Form PTO 1449 filed December 22, 2003. Thus, no further action is required by the Examiner.

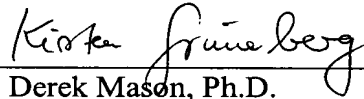
Application No.: 10/644,938

Reply to the Office Action dated: October 6, 2005

This application presents allowable subject matter, and the Examiner is kindly requested to pass it to issue. Should the Examiner have any questions regarding the claims or otherwise wish to discuss this case, he is kindly invited to contact Applicants' below-signed representative, who would be happy to provide any assistance deemed necessary in speeding this application to allowance.

Respectfully submitted,

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A handwritten signature in cursive script, appearing to read "J. Derek Mason", is written over a horizontal line.

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